

**REMARKS****Response to Claim Objections**

Claims 1, 2, 5 and 24 are objected to by the Examiner because of a variety of informalities. In response the applicants have amended these claims.

In claim 1, "elongated member" was modified to read as -- elongated probe member --.

In claim 2, "probe member" was replaced with -- elongated probe member --.

In claim 5, "wherein aperture" was changed to read -- wherein the aperture --.

In claim 24, the word "a" was replaced with the word -- an --.

**Response to Claim Rejections Under 35 U.S.C. §112**

Claims 2-6, 8-16, 22-45, 52-65, 69, 71-84 and 86-95 are rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended the above (and other) claims to obviate these rejections.

**Response to Claim Rejections Under 35 U.S.C. §102**

Claims 1, 7, 17-20, 22, 23, 27-29, 31-33, 35-45, 51-59, 63-65, 69, 71-74 and 83-87 are rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by Miller et al. (U.S. Pat. No. 6,758,824). In this rejection the Examiner contends that the tissue cutting edges 35/36 have a longitudinal orientation at an angle less than 90° with respect to the longitudinal axis. However, the Examiner appears to be contending that the beveled surface 36 is a cutting edge having a longitudinal orientation. However, while the beveled surface 36 of Miller has a longitudinal orientation, the tissue cutting

edge 35 is oriented transversely not longitudinally. Moreover, the tissue cutting edges of applicants' cutter are outside cutting edges not inside cutting edges as shown by Miller. Additionally, the tissue cutting edges (35) of Miller engage the cutting board (31) not the edges of the aperture of the outer tubular member.

Miller does not teach every feature of the rejected claims so this reference cannot anticipate the rejected claims as contended by the Examiner.

#### **Response to Claim Rejections Under 35 U.S.C. §103**

Claims 2-6, 8-16, 21, 24-26, 28, 30 and 34 are rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Miller et al. ('824) in view of Ouchi (U.S. Pat. No. 6,514,215). The deficiencies of Miller et al. are discussed above. The Ouchi patent discloses a slot, but the slot is in the wrong member. In the Ouchi device, the tissue cutting member is an outer tubular member, not an inner member and the slot is formed in the inner non-cutting member. The combination thus fails to teach every feature of the rejected claims. Moreover, the Examiner gives no logic as to how these teachings may be modified to arrive at applicants claims.

**Conclusions**

The applicants believe that the pending claims as amended above define patentable subject matter. Reconsideration and an early allowance are earnestly solicited.

Respectfully submitted,

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